

## **The complaint**

The estate of Mr S complains about the service provided by Nationwide Building Society.

## **What happened**

Mr S had a current account with Power of Attorney (POA) arrangements before he passed away in August 2021. Mr R, a friend, and Mrs J, the late Mr S' daughter, were appointed to act on his behalf. They say Nationwide:

- Allowed the late Mr S to issue cheques despite being aware he lacked capacity
- Allowed Mr S to continue to use telephone banking and his debit card despite being aware he lacked capacity
- Refused the attorneys' request for a cheque book
- Insisted that both Mr R and Mrs J agreed each transaction, instruction or decision concerning the late Mr S' account jointly

Following Mr S' death, Mr R was appointed to act as executor of his estate. Mr R referred the complaint to our service along with a copy of Nationwide's final response dated 9 June 2021. Nationwide's final response explained that Mr S's request for a substantial transaction was approved in error. Nationwide refunded the transaction and paid the late Mr S' current account £100. A follow up final response was issued on 18 June 2021 but Nationwide didn't offer to do anything else to resolve the complaint.

An investigator at this service looked at the estate of Mr S' complaint and upheld it on 24 March 2022. The investigator recommended that Nationwide refund transactions highlighted by Mr R and pay a further £400 for the distress and inconvenience caused to the late Mr S prior to his death. The investigator also said Nationwide could consider compensating Mr R and Mrs J for the inconvenience caused, on a goodwill basis.

The investigator chased responses from Nationwide in the weeks that followed. But no contact or response was received so they wrote to both parties on 21 April 2022 to confirm the case would be referred to an ombudsman for a final decision. We invited both parties to respond with any further comments they wanted to make by 5 May 2022. Mr R responded on the estate of Mr S' behalf and gave further comment. We didn't hear back from Nationwide.

More recently, our investigator has again sought to obtain a response to their findings from Nationwide. On 7 August 2022 Nationwide contacted us to confirm it would respond no later than 11 August 2022 but nothing further has been received.

As no response has been received from Nationwide, the estate of Mr S' case has been passed to me to make a decision.

## **What I've decided – and why**

I've considered all the available evidence and arguments to decide what's fair and

reasonable in the circumstances of this complaint.

Our investigator has made concerted efforts to obtain Nationwide's response and comments concerning his view of how to fairly resolve the estate of Mr S' complaint. Their findings were issued in March 2022 and responses have been chased at various levels since that point. Most recently, a deadline of 11 August 2022 has been missed.

I don't think it's reasonable to continue to extend the deadline to allow Nationwide more time. We have to be fair to both parties and it's very unlikely we'd be able to provide extensions of this nature without any explanation for the cause of delay from the estate of Mr S. And I'm satisfied Nationwide has had sufficient time to respond. So I've reviewed the file as it stands, including the investigator's view of how to resolve this case. I'm satisfied I can reach a fair decision based on the information on file and that all parties have been given fair opportunity to respond to the investigator's view.

Mr R has pointed out that due to account restrictions various transactions he's highlighted couldn't have been made by the attorneys. As a result, Mr R has provided a list of transaction to Nationwide and asked for them to be refunded. This list was sent again by the investigator in January 2022 but no direct response confirming whether they would be refunded has been received. Without anything from Nationwide, I'm satisfied the transactions highlighted in Mr R's list that was forwarded to it on 27 January 2022 and chased on 16 February 2022 and again on 3 March 2022, should be refunded to the estate of Mr S. As Mr R has said, neither he nor Mrs J appear to have been in a position to approve the transactions and the late Mr S lacked capacity to approve them.

Our investigator recommended an increase in compensation for the estate of Mr S by a further £400, taking the total award to £500. The issues raised relate to Mr S' account before he passed away and I don't doubt they caused him distress. And it's clear the estate of Mr S has been put to a reasonable level of inconvenience. So I'm going to proceed to uphold this complaint and increase the award on that basis. I'm satisfied a total award of £500 fairly reflects the impact of what's happened on the estate of Mr S.

The investigator also said Nationwide should consider compensation for Mr R and Mrs J on a goodwill basis. I have no power to award compensation of this nature to the representatives of a consumer or estate. So I leave it to Nationwide to decide how to proceed. This doesn't form part of my findings or decision.

For the reasons I've given above, I'm upholding the estate of Mr S' complaint.

### **My final decision**

My decision is that I uphold the estate of Mr S' complaint and direct Nationwide Building Society to settle as follows:

- Reimburse all transactions highlighted on the statements forwarded to Nationwide on 27 January 2022 to the estate of Mr S
- Pay the estate of Mr S a total of £500 (less any compensation already paid)

Under the rules of the Financial Ombudsman Service, I'm required to ask the estate of Mr S to accept or reject my decision before 14 September 2022.

Marco Manente  
**Ombudsman**